

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE PORK ANTITRUST
LITIGATION

Case No. 0:18-cv-01776-JRT-JFD

**DECLARATION OF ERIC
SCHACHTER IN SUPPORT OF
PLAINTIFFS' MOTION TO
APPROVE THE MANNER AND
FORM OF CLASS NOTICE**

This Document Relates to:

All Consumer Indirect Purchaser Actions

I, Eric Schachter, hereby declare as follows:

1. I am a Senior Vice President with A.B. Data, Ltd. ("A.B. Data"). A.B. Data has been acting as the Settlement Administrator for previous settlements reached in this litigation and has been a notice and/or settlement administrator in similar large class action cases, including the *Broilers Antitrust* matter. I am fully familiar with the facts contained herein based upon my personal knowledge, and if called as a witness, could and would testify competently thereto.

2. As detailed in my previous Declaration of Eric Schachter in Support of Plaintiffs' Motion for Final Approval of Settlement dated November 15, 2021 (the JBS Settlement, ECF No. 994), and my previous Declaration of Eric Schachter in Support of Plaintiffs' Motion for Final Approval of Settlement dated March 15, 2023 (the Smithfield Settlement, ECF No. 1861), as Settlement Administrator for this litigation, A.B. Data has

previously provided notice to the Class and has been receiving and processing claims from Class Members.

3. The prior notices issued to the Class featured a combination of: i) direct Email Notice to approximately 20 million potential Class Members; ii) a digital advertising campaign on numerous digital and social media platforms that delivered over 420 million digital impressions; iii) a news release disseminated via *PR Newswire*; and iv) a toll-free number and case-specific website to address potential Class Member inquiries.

4. Pursuant to the Court's final approval orders dated September 14, 2022 (JBS Settlement), and April 11, 2023 (Smithfield Settlement), notice was found to have met the requirements of due process and Rule 23(c)(2)(B). As a result of these efforts, approximately 2.4 million claims from potential Class Members have been submitted to date.

5. On March 29, 2023, the Court issued an order granting Consumer Indirect Purchaser Plaintiffs' motion for class certification (the "Class Certification Order"). The Certified Class is generally defined, subject to certain exclusions, as "All persons and entities who indirectly purchased raw pork, bacon, or one or more of the following types of raw pork, whether fresh or frozen: bellies, loins, shoulder, ribs, or pork chops from defendants or co-conspirators for personal consumption in the Repealer Jurisdictions from June 28, 2014, to June 30, 2018."

6. Since the Certified Class is substantially similar to the previously noticed Settlement Class, A.B. Data proposes using the same methodology and media to effectuate notice to the Certified Class. More specifically, A.B. Data proposes a combination of direct

email notice, digital media, social media, and earned media to reach the target audience and deliver notice to potential members of the Certified Class.

7. The Email Notice, attached as **Exhibit A**, will include summary information concerning the Action, including that this is a class action; a description of the Certified Class in plain and engaging language (“If you purchased any Pork product in the United States from June 28, 2014, through June 30, 2018, a class action lawsuit may affect your rights.”); that the Class alleges price-fixing claims; Class Counsels’ identity and contact information; that a Class Member may appear through an attorney; that Class Members can be excluded; the deadline and consequences for requesting exclusion; and the binding effect of a class judgment. A more detailed long-form notice will be available for download on the case-specific website (the “Website Notice,” attached as **Exhibit B**). Each notice is written in plain language and sets the information out in a neutral, question-and-answer format that class members can understand. The notices also conform with the Judicial Center’s *Class Action Notice and Plain Language Guide*,

8. Email Notice will be sent using contact information for known Class Members either provided by third parties subpoenaed by Co-Lead Counsel, such as grocery stores, or from Class Members who already submitted claims. A.B. Data expects to directly notice approximately 24 million potential Class Members. To maximize deliverability, A.B. Data will implement several best practices such as ensuring no inclusion of words or phrases known to trigger SPAM or junk filters, not including attachments to the email, and sending the emails in tranches over a period of days. These tasks include running the list of recipient email addresses through a deliverability analysis to ensure the email addresses

are valid, as well as working with A.B. Data's technical consultants to develop strategies to achieve optimal deliverability. The email notice will also include the case specific website, where class members will have access to the updated website (long-form) notice, the exclusion deadlines, and other case specific information.

9. Digital banner and social media newsfeed advertisements will be targeted specifically to Class Members resulting in additional opportunities to be apprised of the status of the litigation and their rights. These banner advertisements and social media newsfeed advertisements will appear in multiple formats across desktop and mobile devices in both English and Spanish. The banner advertisements will be placed via Google Display Networks and Google AdWords, and on the social media platforms Facebook, Instagram, and YouTube, and leading social media sites in the United States. A.B. Data proposes displaying these banner advertisements for 30 days, which is expected to generate a minimum of 400 million impressions. Clicking on any such banner notice will take the reader to the case website, www.overchargedforpork.com, where they can obtain detailed information about the litigation. Targeted advertisements will also be delivered to potential Class Members using their known contact information, and to digital users who expressed an interest related to the subject of this case, such as cooking. These ads will be placed in "premium positioning" on websites and social media sites, and were specifically designed to be readable, noticeable, and widely disseminated. Additionally, sponsored search listings, directing class members to the case website, will be acquired on Google and other search engines. When identified target phrases and keywords relevant to the action are used in searches, a text ad and a link to the case website may appear on the search result pages.

This paid search advertising will assist Class Members across the U.S. in finding and accessing the case website. Each element of this media campaign has been specifically designed to be readable, noticeable, targeted, and widely disseminated to sources calculated to reach potential Class Members.

10. A.B. Data will also cause notice to be disseminated as a news release via *PR Newswire*'s US1 Newswire distribution list. This news release will be distributed via *PR Newswire* to the news desks of approximately 10,000 newsrooms, including those of print, broadcast, and digital websites across the United States. The news release will also be translated and published to *PR Newswire*'s U.S. Hispanic media contacts and Hispanic news websites.

11. A.B. Data will also update the case-specific website, www.overchargedforpork.com, and the recorded information on the toll-free telephone number provided to Class Members, with information concerning the Court's Class Certification Order. The website will host the claims forms, notice documents, and other documents about this case and will also provide, among other things, a summary of the case, all important dates, and any pertinent updates concerning the litigation. The website is secure, with an "https" designation. Google Analytics and Facebook Pixel tracking codes will also be placed on the website to ensure accurate optimization with the digital and social media ads. The toll-free telephone number will use an automated interactive voice response system to present callers with a series of choices to hear prerecorded information concerning the case deadlines.

12. These notice components satisfy due process requirements and are similar to the methods previously used to reach Class Members to notify them of the prior settlements. A.B. Data estimates that this notice campaign will reach a minimum of 80.3% percent of the target audience and thus potential Class Members. This is well above the 70% threshold recommended by the Federal Judicial Center's *Class Action Notice and Plain Language Guide*.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 1st day of September 2023 in Milwaukee, Wisconsin.


ERIC SCHACHTER